

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
CITY OF BEE CAVE
APRIL 4, 2011

STATE OF TEXAS §

COUNTY OF TRAVIS §

Present:

Caroline Murphy, Mayor
Jack McCool, Mayor Pro Tem
Chad Bockius, Council Member
Bob Dorsett, Jr., Council Member
Bill Goodwin, Council Member
Mike Murphy, Council Member (arrived at 6:01 p.m.)

City Staff:

Frank Salvato, City Administrator
Travis Askey, Deputy City Administrator
Patty Akers, City Attorney
Kaylynn Holloway, City Secretary
Russell Pancoast, Police Chief
Amy Kelley, Systems Administrator

Call to Order and Announce a Quorum is Present

With a quorum present, the Special Meeting of the Bee Cave City Council was called to order by Mayor Murphy at 6:00 p.m. on Monday, April 4, 2011 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

Executive Session

The City Council closed the Open Session at 6:01 p.m. to convene in Executive Session in the Conference Room.

At this point in the meeting, the Mayor publicly announced that a closed, executive session would be held and identified the sections of the Open Meeting Law under which the meeting would be held.

Executive Session. Executive session in accordance with the Texas Government Code, Section 551.071 - Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with

the provisions of the Open Meetings Law. The Council may adjourn into the Conference Room for the executive session.

- A. LCRA Rate Case litigation
- B. Consultation with attorney regarding authority of City of Bee Cave to:
 - 1. regulate sexually oriented businesses and adult novelty businesses;
 - 2. regulate drug paraphernalia, synthetic cannabinoids and other synthetic products used or ingested as a mind altering substance;
 - 3. remedies available to the City for illegal construction activities in the City

The City Council closed the Executive Session at 7:48 p.m. and reconvened in Special Session in the Council Chambers.

Discuss and consider action on Ordinance No. 76 amending Chapter 14, Offenses and Additional Provisions, of the City of Bee Cave Code of Ordinances, to create a new Article 14.04 related to the prohibited possession, use, ingestion, distribution, delivery and sale of certain synthetic cannabinoids, substances containing Methylenedioxypyrovalerone (MDPV), known as "Bath Salts", restricting smoking materials and products considered drug paraphernalia providing for definitions, prohibited substances, restrictions on smoking materials and devices and creating penalties.

City Administrator Frank Salvato presented this item.

Mayor Murphy invited comments from those present.

Daniel Myrick, General Counsel for Christopher Commercial Inc., requested that the Council postpone consideration of the ordinances so that they would have an opportunity to consider what impact the ordinances would have on other businesses rather than rushing to pass something for the sake of expediency.

Maryann Yamin, Caudill Lane, supported Planet K and spoke against adoption of the ordinances.

Zelda Auslander, 3101 Hayden Bend, stated that she agreed that the restricted materials should not be distributed in Bee Cave but she was concerned about the criminalization aspect of the ordinances. She commented that kids make mistakes.

Liz Stringer, Hamilton Pool Road, stated that she was against Planet K coming to Bee Cave and supported adoption of the ordinances.

Melissa Eurich, Hamilton Pool Road, stated that if certain drugs were going to be outlawed by the state then to let the state handle it. She commented that she was also concerned about criminalization because children would test the limit.

Michael Kleinman, founder of Planet K and owner of the Trading Post property, requested that the Council not rush to judge Planet K. He stated that they would do their best to comply with the City's rules and regulations; however, should the Council attempt to regulate them out of business or deny them use of their own property or sensor their proposed mural art work, they would vigorously defend their inherit right to freedom of expression and free enterprise.

Terry Irion, counsel for Kleinman, agreed that a community has a right to regulate but the proposed ordinances were too broad.

MOTION: A motion was made by Council Member Dorsett, seconded by Council Member Murphy, to adopt Ordinance No. 76 as presented.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Pro Tem McCool, Council Members Bockius, Dorsett, Goodwin and Murphy
Voting Nay:	None
Absent:	None

The motion carried.

Discuss and consider action on Ordinance No. 77 amending Chapter 6 Business Regulations of the City of Bee Cave Code of Ordinances to create a new Article 6.07 Licensing Requirements for Sexually Oriented Businesses ("SOBs") and creating fees and penalties.

City Attorney Patty Akers presented this item.

MOTION: A motion was made by Council Member Dorsett, seconded by Mayor Pro Tem McCool, to adopt Ordinance No. 77 as presented.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Pro Tem McCool, Council Members Bockius, Dorsett, Goodwin and Murphy
Voting Nay:	None
Absent:	None

The motion carried.

Discuss and consider action on Ordinance No. 78 amending Chapter 24 Building Regulations, of the City of Bee Cave Code of Ordinances regarding information required to be submitted in building permit applications, building site requirements and additional criteria by which building permit applications will be evaluated by the Building Official and providing for penalties.

Mr. Salvato presented this item.

MOTION: A motion was made by Council Member Bockius, seconded by Council Member Dorsett, to adopt Ordinance No. 78 as presented.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Pro Tem McCool, Council Members Bockius, Dorsett, Goodwin and Murphy
Voting Nay:	None
Absent:	None

The motion carried.

Discuss and consider action on Ordinance No. 79 amending Chapter 28 Sign Regulations of the City of Bee Cave Code of Ordinances to amend the definition of a sign and providing for penalties.

Mrs. Akers presented this item.

Kerry Awn, Spicewood, stated that he was the artist who was asked to paint the mural on the Trading Post building. He asked the Council to not be afraid of murals.

The City Attorney suggested that the Council remove the word “large” from the definitions of murals.

After numerous questions and comments, Mayor Murphy asked if there was a motion.

MOTION: A motion was made by Council Member Bockius, seconded by Mayor Pro Tem McCool, to adopt Ordinance No. 79 and deleting the word “large” in Section 28.01.001 regarding the definition of “Mural”.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett and
Murphy
Voting Nay: Council Member Goodwin
Absent: None

The motion carried 4-1.

Adjournment

MOTION: A motion was made by Council Member Murphy, seconded by Council Member Bockius, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Pro Tem McCool, Council Members Bockius, Dorsett,
Goodwin and Murphy
Voting Nay: None
Absent: None

The motion carried.

The City Council adjourned the Special Session at 9:00 p.m.

PASSED AND APPROVED this 12th day of April, 2011.

Jack McCool, Mayor Pro Tem

ATTEST:

Kaylynn Holloway, City Secretary
[SEAL]